

Internal Revenue Service

District
Director

Department of the Treasury

P.O. Box 2508
Cincinnati, OH 45201

Person to Contact:

Telephone Number:

Refer Reply to:

Date:

SEP 7 1984

Dear Sir or Madam:

We have considered your application for recognition of exemption from Federal income tax as an organization described in section 501(c)(5) of the Internal Revenue Code of 1954.

The information submitted discloses that you were incorporated on [REDACTED], in the State of [REDACTED]. Article II of your Articles of Incorporation states,

The purposes for which the corporation is organized are to conduct an annual auction of livestock owned by youth exhibitors and distribute proceeds of the auction to the individual exhibitor, and the promotion and marketing of agricultural commodities associated with the auction.

The application for exemption indicates that members of your organization are selected on the basis of knowledge and experience in dealing with farm animals along with marketing and promotion experience and expertise. Membership is based on recommendations or volunteers.

Your activities consist of conducting an auction of market livestock. The owners of the livestock are youth exhibitors at [REDACTED]. The proceeds are collected by the committee and then disbursed to the owners, youth exhibitors, of the animals. A small percentage of the proceeds are deducted to cover auction expenses in conducting and promoting the auction.

Income is received from donations and the sale of livestock and cheese. Expenditures are made to livestock owners for the sale of livestock, insurance, supplies, trucking expenses, the auctioneer, and miscellaneous operating expenses.

Section 501(c)(5) of the Code provides exemption from Federal income tax for labor, agricultural, or horticultural organizations.

Sect. on 1.501(c)(5)-1(a) of the Income Tax Regulations provides that the organizations contemplated by section 501(c)(5) as entitled to exemption are those which (1) have no net earnings inuring to the benefit of any member, and (2) have as their objects the betterment of the conditions of those engaged in such pursuits, the improvement of the grade of their products, and the development of a higher degree of efficiency in their respective occupations.

Revenue Ruling 66-105, 1966-1 C.B. 145 denied exemption to an organization formed to carry out a livestock improvement program and to sponsor and promote sales of livestock for its members who were owners or operators of farms. The organization's principal activity was marketing livestock at auction as agent for its members. It furnished the labor, advertising, bookkeeping services, and physical facilities required for the auctions. A percentage of the sales proceeds was retained for expenses and establishment of a reserve for the future acquisition of land and buildings. The balance was remitted to the members as payment for their livestock. The sale of members' products with the return to them of the net proceeds was held to be neither an object nor an activity within the ambit of section 501(c)(5) of the Code and the Regulations thereunder. The principal purpose of the organization was to act as a sales agent for its members.

We are of the opinion that you are similar to the organization in the above mentioned revenue ruling. Your primary activity is the conduct of the sale of livestock with the net proceeds being returned to the owners of the livestock. Therefore, we propose to deny your application for exemption under section 501(c)(5) of the Code.

Consideration was given to obtaining exemption under other subsections of 501(c) of the Code and you do not qualify under any other subsection.

As your organization has not established exemption from Federal income tax, it will be necessary for you to file an annual income tax return on Form 1120.

If you are in agreement with our proposed denial, please sign and return the enclosed Form 6018, Consent to Proposed Adverse Action.

[REDACTED]

You have the right to protest this proposed determination if you believe that it is incorrect. To protest, you should submit a written appeal giving the facts, law, and any other information to support your position as explained in the enclosed Publication 892 (Rev. 7-83), "Exempt Organization Appeal Procedures for Unagreed Issues". The appeal must be submitted within 30 days from the date of this letter and must be signed by one of your principal officers. You may request a hearing with a member of the office of the Regional Director of Appeals when you file your appeal. If a hearing is requested, you will be contacted to arrange a date for it. The hearing may be held at the Regional Office, or, if you request, at any mutually convenient District Office. If you are to be represented by someone who is not one of your principal officers, he must file a proper power of attorney and otherwise qualify under our Conference and Practice Requirements as set forth in section 601.502 of the Statement of Procedural Rules. See Treasury Department Circular No. 230.

If we do not hear from you within the time specified, this will become our final determination.

Sincerely yours,

187/100-1000
by: [REDACTED]

[REDACTED]
District Director

Enclosures 2